

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SANEI CHARLOTTE RONSON LLC,

Plaintiff,

**DECLARATION IN SUPPORT
OF DEFENDANT'S MOTION TO
DISMISS**

Civil Action No.: 07CV9578 (CM)

- against -

GMA ACCESSORIES, INC.,

Defendant.

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ANDREW T. SWEENEY, hereby declares, under penalty of perjury pursuant to 28
U.S.C. § 1746, as follows:

1. I am an associate at The Bostany Law Firm, Defendant-Counterclaimant in this proceeding.
2. This declaration is submitted in support of defendant's motion to dismiss the complaint of the plaintiff.
3. There is presently an opposition proceeding taking place before the TTAB between the two parties with the defendant opposing the registration of Charlotte Ronson. Defendant recently filed a brief with the TTAB in opposition to the plaintiff's motion to suspend the TTAB proceedings. A copy is annexed as **Exhibit A**.
4. On November 29, 2006 GMA filed a motion to reconsider summary judgment in the TTAB based primarily on the fact that the TTAB was not comparing marks which adopted a registered mark in its entirety, i.e. Charlotte Ronson consumes

the mark CHARLOTTE. A copy of the motion to reargue is annexed as **Exhibit B**.

5. In conjunction with actively policing infringement of its CHARLOTTE mark, GMA commenced an action against sellers of "Charlotte Solnicki" goods. GMA Accessories, Inc. v. Eminent, Inc., et. al., Civil Action No.: 07cv3219 (LTS). See complaint annexed as **Exhibit C**.
6. Six of the defendants represented by the same firm representing SANEI, filed answers with identical boilerplate counterclaims. A representative copy of the counterclaims which contain the same "trademark misuse" and fraud claims that SANEI makes here, is annexed as **Exhibit D**. GMA filed a motion to dismiss these counterclaims on November 13, 2007. A copy of GMA's brief is respectfully annexed as **Exhibit E**.
7. A copy each of the pertinent portions of Sanei's complaint and civil cover sheet in this action are annexed as **Exhibits F and G** respectively.
8. In addition to filing 18 counterclaims, within days of each other, before different tribunals and judges, SANEI's law firm filed a motion to vacate a default judgment, a motion to intervene, a motion to suspend and the instant lawsuit.

For the reasons contained in the accompanying memorandum of law, we respectfully ask that the complaint be dismissed.

Dated: New York, New York
November 19, 2007

Respectfully Submitted,

By


ANDREW T. SWEENEY (AS-0724)